

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )

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CC Docket No. 92-77

Billed Party Preference )

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for 0+ InterLATA Calls )

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**Reply Comments of  
Opus Correctional Inc. d/b/a LocTel**

Opus Correctional Inc. d/b/a LocTel ("LocTel"), a provider of specialized telecommunications services to confinement facilities throughout the country, including facilities under the authority of the U.S. Department of Justice, Division of the Federal Bureau of Prisons, submits these reply comments opposing application of Billed Party Preference ("BPP") to inmate telephone services.<sup>1/</sup>

**I. Application of BPP to Inmate Only Services Is Not in the Public Interest; Inmate Only Service Must Be Exempted From BPP**

In its August 1, 1994 comments in this proceeding, LocTel demonstrated that, if applied to inmates services, BPP will drastically reduce inmates' access to telephone throughout the nation. In short, BPP would eliminate the incentive for, and economic ability of, inmate service providers to continue to develop and implement the specialized correctional telephone systems which today enable inmates access to telephone facilities which would have been unthought of a decade ago. As a result of special fraud control protections developed for correctional facilities, these inmate telephone systems simultaneously increase inmates' access to telephone service and reduce correctional administrators' oversight of inmate telephone usage. These

<sup>1/</sup> "Inmate services" refers to collect call telephone service made available to inmates, and does not refer to operator services available to the public (e.g., to correctional administrators or payphones in correctional facility public areas). The June 6, 1994 Further Notice in this proceeding (at ¶ 2) invited comment on whether BPP should apply to inmate services.

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inmate telephone systems are thus in the public interest because: (i) they promote inmate access to telephone service, thereby increasing inmate moral, rehabilitation, and discipline; and (ii) they maximize correctional administrators' ability to control and monitor inmates' use of available telephone services. As demonstrated by the comments filed in this proceeding, application of BPP to inmate services is contrary to the public interest because it would reduce inmate access to telephone service and would substantially degrade security in controlled correctional environments. Thus, any mandate of BPP must exempt inmate only telephone service.

The majority of comments in this proceeding either affirmatively argue that inmate only services should be exempt from BPP or do not oppose exemption. LocTel believes that the Commission should take special notice of the numerous comments filed by state and county correctional facility administrators which uniformly opposed BPP on the basis that it will materially compromise their ability to afford inmates the level of telephone service currently enjoyed and to protect the public against fraudulent and harassing telephone calls. Notwithstanding this record, LocTel here responds to several arguments made by Citizens United For Rehabilitation of Errants ("CURE") in its August 1, 1994 comments.

## **II. Application of BPP To Inmate Access Service Will Eliminate Fraud Controls**

CURE argues that BPP will not eliminate the fraud controls which have been developed over the last number of years specifically for the correctional market because BPP will apply to only interstate calls and "will leave [the intrastate] lucrative market untouched." CURE Comments at 7. In other words, BPP should apply to interstate inmate calls because correctional facilities will continue to receive revenue on intrastate calls and this intrastate revenue will continue to support inmate only providers, such as LocTel, to provide state-of-the-art inmate

only telephone systems.<sup>2/</sup> CURE's argument makes the very point that correctional administrators have sought to impress upon the Commission: That revenue from inmate calls support the ability of the jails and the inmate providers to implement the advanced inmate telephone systems which enable inmates maximum access to telephone services.

Second, CURE argues that fraud control protections will not be diminished because "BPP will leave current call control systems untouched." This is further affirmation that the existing inmate service market is providing important public interest benefits. Additionally, as the comments have demonstrated, this is factually incorrect. Application of BPP will eliminate the ability and incentive of inmate providers to provide collect call control equipment to correctional facilities. *See* LocTel Comments at 8. In a written ex parte to the Commission, LocTel informed the Commission that, as late as 1992 (eight years after Divestiture and the onset of competition), at least one RBOC (Nevada Bell) was still technically unable to provide automated collect calls service to correctional facilities.<sup>3/</sup> This demonstrates that even where economic incentive exists, the marketplace cannot assure that inmate telephone systems are implemented. If BPP were applied to inmate services, the economic incentive for existing providers to continue to operate the call control systems would be eliminated, therefore rendering it unlikely that current call control systems would continue to exist and provide the important fraud protections which are available today.

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<sup>2/</sup> *See also* CURE Comments at 4 ("because a portion of the inmate phone market appears to be intraLATA and local calling traffic, prison officials likely will retain commissions from that traffic").

<sup>3/</sup> *See* Notice of Written Ex Parte (Docket No. 92-77), filed by Robert Cefail & Associates American Inmate Communications, Inc. and LocTel (May 12, 1994).

### **III. Exempting Inmate Only Services Would Not Unfairly Burden Inmate Families and Friends**

CURE argues that inmate service provider rates are excessive because they are not subject to competition, that these rates unjustly burden inmate families and friends, and that even rate caps on inmate services would not adequately protect consumers. CURE Comments at 10-15. Although there is no reason to doubt CURE's motives, CURE misapprehends entirely both the marketplace for inmate services and the economics of providing inmate service.

First, as discussed above, application of BPP will diminish (not increase) the telephone service available to inmates because correctional administrators will lose the valuable fraud protections which have been developed over the last number of years and which permit administrators to provide inmates increased access to telephone service. Thus, application of BPP will burden inmates' family and friends and isolate inmates.

Second, although isolated instances of abuse by certain inmate providers have occurred, the record is remarkably silent on the magnitude of the alleged "abuse." This is because such instances are indeed isolated, not endemic. For obvious reasons, inmate service is among the most highly regulated field in telecommunications. As demonstrated in LocTel's initial comments,<sup>4/</sup> most correctional facilities are now requiring in their contracts that rates be capped at dominant carrier rates. To the extent that overcharges have occurred, these rates limitation requirements have largely corrected any abuse. Moreover, the inmate marketplace is relatively small and, as a result of their reputations, rate abusers find it difficult to retain correctional customers; in this respect the marketplace services its proper function. Moreover, to the extent

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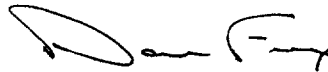
<sup>4/</sup> LocTel Comments at 16.

that the Commission determines that rates are a concern in the inmate context (which LocTel believes is incorrect), as LocTel noted in its initial comments, the Commission has the authority to address that concern through the tariff review process. CURE's argument that rate caps are not adequate to protect inmate friends and families evidences CURE's unreasonableness and highlights the extremity of its position.

### **Conclusion**

For the foregoing reasons, LocTel urges that the Commission exempt inmate only services from billed party preference.

Respectfully submitted,



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